



STAFF REPORT

MEETING DATE: May 24, 2021
AGENDA ITEM TITLE: 137 W. Seventh Street Variance Application
AGENDA SECTION: Public Hearing

REQUEST:

The purpose of the request is to receive two (2) variances. Both requests are to receive a variance from the minimum setback of twenty (20) feet required for the front yard setback.

The applicant is requesting a minimum allowed front yard setback of 5'6" to rebuild the existing covered front porch on the primary structure. A covered front porch may encroach into the front yard setback by twenty-five (25) percent. The applicant is requesting a minimum allowed front yard setback of 11' to build a detached garage in line with the existing setback of the primary structure.

APPLICANT:

The applicant is Krista Frakes, 4561 Perry Street, Denver CO 80212. The applicant's representative is Sarah Whittington of Architectural Services.

LOCATION:

The property is legally described as Lots 25 and 26, Block 91, Sackett/Haskells Addition to the Town (now City) of Salida, Chaffee County, Colorado. This property is also known as 137 W Seventh Street.



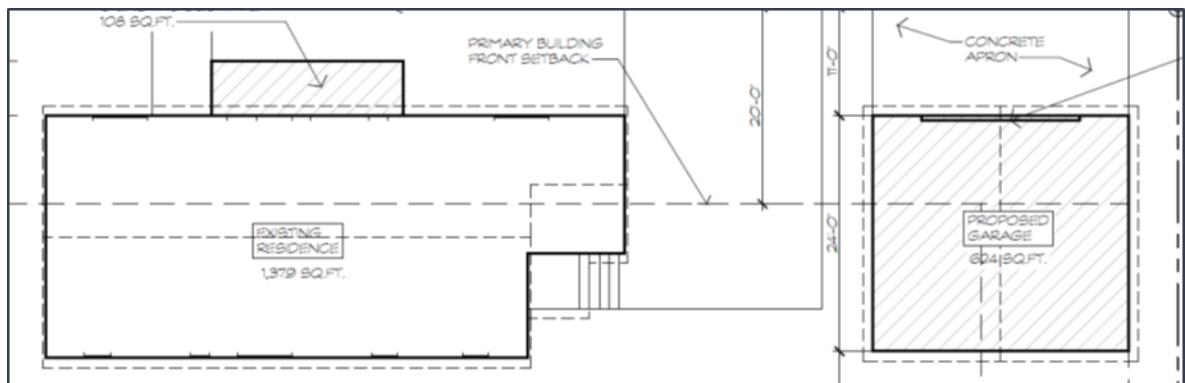
PROCESS:

Variances are addressed in the City's Code of Ordinances, Section 16-4-180, Zoning Variances. Variances may be granted from the standards of the underlying zone district and shall be authorized only for maximum height, minimum floor area, maximum lot coverage, maximum lot size, minimum setbacks and parking requirements.

The Board of Adjustment holds a public hearing after fifteen days advance notice of the hearing. The public hearing shall be held, at which any person may appear or be represented by an agent or attorney. The Board may describe appropriate conditions and safeguards in conformity with the Zoning title of the City Code.

OBSERVATIONS:

1. The subject property and the surrounding properties are located within the Medium Density Residential (R-2) zone district.
2. Since the orientation of the existing residence is facing West Seventh Street the front setback is along the Seventh Street frontage. The existing single-family residence is considered nonconforming because it does not meet the required 15' front setback for covered porches. The house was built in the 1950's at the current front setbacks of 11' for the residence and 5'6" for existing covered porch.
3. All of the other residences in this neighborhood are fronting either F Street or G Street.
4. The request is to receive relief from the minimum 20' front setback to reconstruct the covered porch of the existing structure. The applicant is not requesting to increase the nonconformity, she is requesting the variance to be able to rebuild a new covered porch with the same front setback of 5'6".
5. The second variance request is for a minimum allowed front yard setback of 11' to build a single-story detached garage in line with the existing setback of the primary structure. The applicant proposed to build the garage meeting the current 20' front setback but ran into issues with the telecommunications pedestal along the alley. She found it to be cost prohibitive to move the pedestal and build the garage. The applicant will meet all other required setbacks for the detached garage but is requesting relief from the 20' front setback.



6. The applicant could, according to code, enclose the existing nonconforming carport and use it as a garage because the nonconformity would not be increased. The carport is encroaching the front setback about the same distance as the covered porch. If the variance is granted to build the detached garage the existing nonconforming carport will be removed.

7. The neighboring property located at 702 F Street has a detached garage that is built meeting the 5' side yard setback of their property which is in line with the front property line of the applicants' property. Across Seventh Street the neighboring property at 647 G Street recently constructed a two-car garage meeting 5' side yard setback along their Seventh Street frontage.



8. As of Thursday, May 20th staff has not received any opposition to the variance requests from the adjoining neighbors.

REQUIRED SHOWING (Section 16-4-180): The applicant shall demonstrate that a majority of the following criteria to the Board of Adjustment before a variance may be authorized.

1. Special Circumstances Exist. There are special circumstances or conditions which are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in the neighborhood.

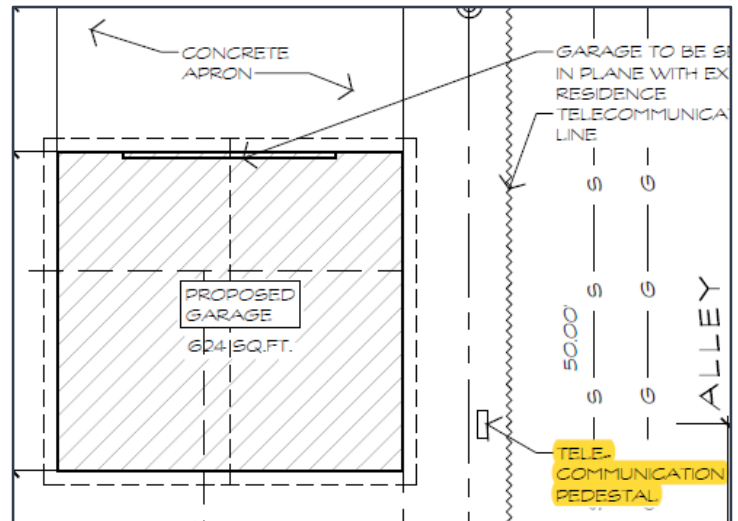
Applicant's response: The existing front door to the house faces West Seventh Street and by definition, the front property line shall be designated by the location of the primary entrance or front porch. This requires a 20'-0" front yard setback. Both the existing house and existing covered porch violate this requirement. This variance is to remove and replace the existing deck and roof cover with an improved design using the same size footprint to the existing.

The property line adjacent to the alley is encumbered by an existing telecommunications pedestal which limits the ability to have a garage open the alley. The front yard setback limits the garage placement on the lot.

- The existing residence was built in the 1950's in its current configuration and at the time there were no setback requirements that staff could find.
- The definition of front lot line in the Land Use Code means the property line dividing a lot from a street right-of-way. On a corner lot, the front line shall be designated by the location of the primary entrance or front porch. Because the house and the front porch is oriented toward Seventh Street that is the front setback and is considered existing nonconforming.



- Special circumstances exist because the residence was built in the 1950's at the current setbacks prior to the applicant owning the property. The existing covered porch of the residence was built 5'6" from the front property line and is deteriorating and in serious need of replacement.
- The applicant is requesting an 11' front setback to construct a detached garage that will be in line with the existing house as shown on the site plan.
- A few months ago the applicant explored building the garage at the current 20' front setback but ran into issues with the telecommunications pedestal along the alley. To move the pedestal is cost prohibitive to the applicant.
- In this case special circumstances exist because of the location of the telecommunications pedestal along the alley of the property and the cost to move it.
- The applicant is trying to keep as much yard "green space" as possible with the garage being built at the proposed 11' front setback and removing the existing carport.



2. Not result of Applicant. The special circumstances and conditions have not resulted from any action of the applicant.

Applicant's response: *The conditions that exist on the lot and the house orientation are existing and not due to the home owner. The existing porch and roof extension are existing and in need of repair. The telecommunications pedestal is expensive and difficult to move.*

- The applicant did not construct the existing home within the setback. The existing covered porch is allowed to be maintained or repaired in its current location without a variance but the existing concrete and roof extension are in need of replacement. The applicant would like to update the existing covered porch to create a safer and more appealing entry.
- The applicant does not have the ability to reconstruct the covered porch without being granted the variance. She is not requesting to increase the existing nonconformity with regards to the front setback, she is requesting to utilize the existing setback of 5' 6" to rebuild the front porch due to the fact that it is in serious need of repair.

3. Strict Application Deprives Reasonable Use. The special circumstances and conditions are such that the strict application of the provisions of this Chapter would deprive the applicant a reasonable use of the building or land.

Applicant's response: *Because of the existing conditions present at the lot, the house and covered porch are inside the front yard setback. This entry structure is in serious need of repair.*

The proposed garage cannot face the alley due to an existing telecommunications pedestal located in the alley adjacent to the property line. The relocation of this existing utility is expensive and time consuming and not recommended by Centurylink who maintains the utility service.

- Strict application would deprive the applicant of making what is essentially a cosmetic change and structural upgrade to the existing porch which will not increase the non-conformity.
 - Because of costs associated with moving the telecommunication pedestal in the alley it will be cost prohibitive to construct the detached garage without variance approval. According to the applicant Centurylink does not recommend moving that pedestal.
4. Variance is Necessary to Provide Reasonable Use. The granting of the variance is necessary to provide the applicant a reasonable use of the land or building.

Applicant's response: *The existing covered porch is decaying and in need of maintenance and repair. The granting of this variance allows for the existing deck and roof cover to be removed and a new front entry porch to be built in its place.*

A variance is required for reasonable use of the property as a detached garage is difficult to place on this lot without a variance due to the existing conditions of the lot. The front yard setback of 20'-0" and the telecommunication pedestal in the alley limit reasonable placement of a detached garage.

- The variance is necessary to make reasonable use of the proposed porch because of setback and code requirements for the need to replace the entry for the front entrance. Again, the applicant is requesting to be able to utilize the existing front setback of 5'6" to remove the deteriorating porch and rebuild and enhance the covered entry.
 - The variance request for the garage is necessary to build the detached garage without having to relocate the telecommunications pedestal at a significant cost.
5. Minimum Variance. The granting of the variance is the minimum necessary to make possible the reasonable use of the land or building.

Applicant's response: *The new porch structure will replace the existing simple structure in size. Slight adjustments to the porch dimension and location may be made for aesthetic reasons.*

The garage will look and fit in with the existing structures on the lot and adjacent properties. Allowing the garage to be in plane with the existing structure gives the owners the best use of their property given the conditions particular to this lot.

- Currently the applicant has reasonable use of the property. The proposal is to replace the existing covered porch and not increase the nonconformity as the footprint would remain the same.

- The applicant is requesting the minimum front yard setback of 11' because of the cost to move the telecommunications pedestal. She is requesting the minimum variance to construct the detached garage to be in line with the existing front setback of the residence.
6. No Injury to the Neighborhood. The granting of the variance will not be injurious to the neighborhood surrounding the land where the variance is proposed, and is otherwise not detrimental to the public welfare or the environment.

Applicant's response: *The granting of this variance will not be injurious to the neighborhood and will allow for a better entry structure and front entry appearance. The new structure will replace deteriorating existing conditions and will be a much needed improvement to the structure and appearance of the house. The proposed garage will replace an existing decaying carport structure and provide secured storage for the lot.*

- The granting of the variance will not be injurious to the neighborhood as it is not out of character with neighboring detached garages. The proposed garage will harmonize with the detached garages across the alley and Seventh Street. The applicant will be able to maintain both the garage and porch on her own property.
 - The Fire Chief and Public Works Director had no concerns with the reconstruction of the front porch and the construction of the garage at the proposed front setbacks.
7. Consistency with Code. The granting of the variance is consistent with the general purposes and intent of this Land Use Code.

Applicant's response: *The proposed covered porch meets all other design criteria for a residence in the R-2 zone. The garage will meet all other design criteria for a detached accessory structure in the R-2 zone.*

- The applicant complies with all other aspects of the code besides the proposed front setbacks.
- Setbacks help provide open space and to address basic safety issues: distances between buildings decrease the potential damage in case of a fire, provide the room necessary for a homeowner to maintain his/her buildings on his/her own property and provide for solar access and ventilation. There will be adequate space which the owner can use for maintenance of the structures.

REVIEW AGENCIES:

Fire Department – Assistant Fire Chief, Kathy Rohrich – Fire Department has no concerns at this time.

Public Works Department – David Lady – No concerns.

REQUIRED ACTIONS BY THE BOARD:

1. The Board shall confirm that adequate notice was provided.
2. The Board shall conduct a public hearing.
3. The Board shall make findings that a majority of the points 1 through 7 of the above section are met by the applicant.

RECOMMENDED FINDINGS:

That the variance requests are in conformance with Section 16-4-180 (e), Required showing, because the variance allows the highest and best use of the property, will not be injurious to the neighbors and maintenance is feasible, will not impact adjacent neighbors and is in keeping with the general purposes of the Code

STAFF RECOMMENDATION:

Staff believes the proposed variance meets the preponderance of criteria #'s 1, 2, 3, 4, 5, 6 and 7.

Based on the findings below, staff recommends the Board of Adjustment **APPROVE** the two variance requests based on the following findings of fact:

1. The existing conditions of the lot and the orientation of the residence are not the result of any action by the applicant.
2. The applicant is not requesting to increase the existing nonconformity.
3. The applicant will be able to maintain the proposed front porch and detached garage on the subject property and both structures will not be injurious to neighbors as required by Section 16-4-180 (6).

RECOMMENDED MOTION: "I make a motion to approve the Frakes Variance requests as both requests meet the review standards for Zoning Variances, subject to the following condition.

1. That the applicant submits a building permit that meets the requirements of the building department.

BECAUSE THIS APPLICATION IS FOR A VARIANCE, THE SALIDA BOARD OF ADJUSTMENT SHALL MAKE THE FINAL DECISION ON THIS APPLICATION. THE DECISION OF THE BOARD OF ADJUSTMENT MAY BE APPEALED WITHIN 15 DAYS OF THE DECISION BY AN AGGRIEVED PERSON AS SET FORTH IN SECTION 16-2-70 OF THE LAND USE CODE.

Attachments: Application materials
Site Plan
Agency reviews